

Supplemental Response To Restriction And Election of Species Requirement**REMARKS**

The present Supplemental Response to Restriction and Election of Species Requirements is being filed in response to the Office Communication of January 31, 2006 urging that Applicants' Amendment and Response to Restriction and Election of Species Requirement filed December 27, 2005 was not fully responsive. Claim 16 was amended in the December 27, 2005 Amendment and Response. Claims 1-16 are pending. No new matter has been introduced. Entry and reconsideration are respectfully requested.

During a telephone interview with the Examiner on, or about, January 27, 2006, the Examiner indicated that Applicants' previous election of "Group I and the single species encompassed thereby, which is readable on Claims 1-24" was not fully responsive to the requirement set forth in the August 27, 2005 non-final Office Action. The Examiner urged that the application, in his opinion, included at least six and possibly seven independent and distinct species, which he identified as the first through sixth embodiments and the "reference example" as a possible seventh species. The Examiner stated that an Office Communication requiring election of a single species from the first through the sixth embodiment and the "reference example" would be mailed in due course. Upon election of a single species, a listing of all the claims readable thereon would also be required.

ELECTION

The Examiner, as discussed in the December 27, 2005 interview and the Office Communication of January 31, 2005, has required restriction to one of the following Species:

- Species A - the first embodiment shown in Figures 1-3;
- Species B - the second embodiment shown in Figures 4-6;
- Species C - the third embodiment shown in Figure 7;
- Species D - the fourth embodiment shown in Figure 8;
- Species E - the "reference example" shown in Figures 12-17, in the event that such "reference example" is regarded as an embodiment of the present application;

Supplemental Response To Restriction And Election of Species Requirement

Species F - the fifth embodiment shown in Figures 18-23C; and
Species G - the sixth embodiment shown in Figures 24-29D.

Applicants respectfully traverse the above election of species requirements as being improper and request withdrawal thereof. The remarks and arguments made in the December 27, 2005 Amendment and Response... are hereby incorporated by reference. Notwithstanding such incorporation, Section 803 of the Manual of Patent Examining Procedure (MPEP) indicates that “there are two criteria for a proper requirement for restriction between patentably distinct inventions” as follows to wit:

“(A) The inventions must be independent...; and,
(B) There would be a serious burden on the examiner if restriction is not required....”

Applicants respectfully submit that all of the embodiments, or species, are properly presented in the same application and that no serious burden on the Examiner would exist if restriction was not required. The Examiner has not provided any evidence or line of reasoning to show that the identified species are distinct and that a serious burden would exist on the Examiner if restriction was not required. As such, the Examiner has not satisfied the two criteria identified in Section 803 of the MPEP. Notwithstanding any actual independence or distinction between the identified species, Section 803 of the MPEP also requires examiners to search and examine an application containing independent or distinct inventions when no serious burden exists. Section 803 of the MPEP also states that:

“If the search and examination of all of the claims in application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions.”

The Examiner has not provided any specific discussion, line of reasoning, and/or evidence to support his conclusion that a serious burden, in fact, exists.

In view of the above discussion, it is respectfully submitted that the election of species requirement is improper and should be withdrawn. Accordingly, action on the merits for the all of the embodiments, or species, and claims is respectfully requested.

Supplemental Response To Restriction And Election of Species Requirement

Notwithstanding the above discussion, **Applicants hereby elect Species A - the first embodiment shown in Figures 1-3, upon which Claims 1, 2, 4, 6-15, 18, 19, and 21-27 are readable.** Applicants reserve the right to file a divisional application based on the non-elected claims.

Supplemental Response To Restriction And Election of Species Requirement

AUTHORIZATION

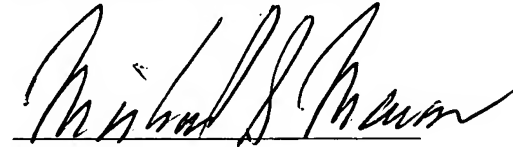
The Commissioner is hereby authorized to charge any additional fees which may be required for the timely consideration of this paper, or credit any overpayment to Deposit Account No. 13-4500, Order No. 1232-5125.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Date: February 28, 2006

By:



Michael S. Marcus

Registration No. 31,727

(202) 857-7887 Telephone

(202) 857-7929 Facsimile

Correspondence Address:

Morgan & Finnegan, L.L.P.
Three World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile